

In the High Court of Judicature at Madras

Dated: 23/11/2004

Coram

The Honourable Mr. Justice P.D.DINAKARAN

Writ Petition No.29481 of 2004

T.Thangarasu .. Petitioner

-Vs-

1. The Superintendent of Police,
O/o. The Superintendent of Police,
Cuddalore District, Cuddalore.

2. The Deputy Superintendent of Police,
O/o. The Deputy Superintendent of
Police, Cuddalore District
Cuddalore. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India
praying for the issue of Writ of Certiorarified Mandamus as stated therein.

For petitioner : Mr.S.Ananthanarayanan
for Mr.G.Ethirajulu

For respondents : Mr.A.L.Somayaji,
Addl. Advocate General,
assisted by Mr.S.Venkatesh,
Spl. Govt. Pleader.

:O R D E R

When a request was made by the petitioner, who is a Town Secretary of Dravida Munnetra Kazhagam, Cuddalore, to conduct a public meeting on 11.10.2004 at 6.00 pm at Manjakuppam Ground, Cuddalore, on behalf of the United Progressive Alliance Parties to ventilate the alleged vindictive and undemocratic and foisting false cases against the leaders and cadres of the opposition parties, the same was rejected by the second respondent herein in his proceedings dated 8.10.2004. Hence, the petitioner has preferred this writ petition for the issuance of writ of Certiorarified Mandamus to call for the records relating to the proceedings made in Na.Ka.No.142/S.D.O.P Camp/2004 dated 8.10.2004 and the consequential order made in Na.Ka.No.143/S.D.O.P Camp/2004 dated 8.10.2004 passed by the second respondent, quash the same and direct the respondents to grant permission to the petitioner to conduct a public meeting at Manjakuppam ground, Cuddalore on 17.10.2004.

2. Heard Mr.S.Ananthanarayanan, learned counsel appearing for the petitioner and Mr.A.L.Somayaji, learned Additional Advocate General appearing for the respondents.

3. By proceedings dated 8.10.2004, which is impugned in the above writ petition, the second respondent refused permission to the petitioner to conduct a public meeting on 11.10.2004 at 6.00 pm at Manjakuppam Ground, Cuddalore, on behalf of the United Progressive Alliance Parties, on the ground that the permission to conduct a public meeting to speak about the implication of one Thiru.T.Velmurugan, a Member of Legislative Assembly, who belongs to Pattali Makkal Katchi, a constituent unit of United Progressive Alliance Parties, in a murder case of one Venkatesan, District Board Counselor, who belonged to the ruling party AIADMK, cannot be granted, as the investigation into the said crime is still pending and in progress.

4. Pending the above writ petition, the petitioner filed an additional affidavit dated 4.11.2004 giving an undertaking that neither the petitioner nor any of the participants on behalf of United Progressive Alliance Parties will speak about the alleged crime said to have been committed by Thiru.T.Velmurugan, MLA, in a public meeting. The petitioner has also stated in the affidavit to the effect that he and the other participants would not refer or address anything related to the alleged involvement of Thiru.T.Velmurugan, MLA, in Venkatesan murder case. The relevant portion of the affidavit of undertaking dated 4.11.2004 filed by the petitioner reads as follows:

"I state that undertake that we will not refer or address to the alleged involvement of Mr.Velmurugan, M.L.A., in the Venkatesan (deceased) murder case, as the said meeting is only to voice forth our legitimate grievances and constructive criticism of the United Progressive Alliance Parties against the autocratic attitude of the ruling Government of Tamilnadu."

5. I have given careful consideration to the submissions of both sides.

6.1. The maintenance of law and order should not depend upon any undertaking or violation of such undertaking, as the maintenance of law and order is a subject within the domain of the executives, who should be given a free hand in the matter of investigation into the crimes.

6.2. Addressing a public meeting, much less expressing opinion on the investigation into the crimes, particularly grave crimes, such as murder, are liable to be deprecated, as the right of freedom of speech and expression conferred under Article 19(1)(a) and 19(1)(b) of the Constitution of India should not be extended to jeopardize the investigation into the crimes. Even though a trial by the public is a very antithesis of the rule of law, particularly in sensational criminal cases, the law does not prohibit such enthusiasm of the public, which is understandable; but require the players in such activity to keep within certain limits.

6.3. If any one is permitted to speak either about the implication or involvement of the accused in any crime, particularly in the sensational crimes, either in the form of opinion, view or agitation either by political or apolitical organisations, in my considered opinion, the same would nothing; but exploitation of the right conferred under Article 19(1)(a) and 19(1)(b) of the Constitution of India, as it would otherwise be a serious inroad into the domain of the authorities, who maintain the law and order, affecting and offending the investigation undertaken by the authorities concerned, but also will prejudice the right of the defence of the accused in the crime, leading miscarriage of justice in violation of the rule of law, one of the strongest pillars of the democracy

6.4. As the life of democracy runs through the veins of rule of law, it is the duty of the Court to give appropriate directions to the authorities concerned in order to uphold the rule of law.

7.1. Hence, I do not see any reason to interfere with the impugned proceedings of the second respondent dated 8.10.2004, refusing permission to conduct a public meeting, as the petitioner initially proposed to speak about the implication of Thiru.T.Velmurugan in Venkatesan murder case.

7.2. However, appreciating the stand taken by the petitioner as well as on behalf of the leaders of the opposition parties in filing an affidavit undertaking that that they will not address or raise the issue pertaining to the implication of Thiru.T.Velmurugan, MLA, in Venkatesan murder case, while dismissing the writ petition, petitioner is at liberty to approach the competent authority seeking permission for conducting a public meeting mentioning alternative date and venue to ventilate the alleged vindictive and undemocratic approach of the ruling party towards the leaders and cadres of the opposition party. On receipt of such application, the authority concerned shall grant permission to the petitioner, imposing a condition that the petitioner Kazhagam shall neither create any law and order problem in the locality; nor affect the public peace and tranquility; nor speak about the implication of Thiru.T.Velmurugan in Venkatesan murder case; nor with reference to the investigation connected therewith; or any other conditions as they may deem it fit and necessary to maintain law and order, public peace and tranquility.

8. In the result, this writ petition is dismissed with the above observations. No costs. Consequently, WPMP.Nos.35801 and 36972 of 2004 are also dismissed.

23.11.2004.

Index : Yes

Internet: Yes

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To

1. The Superintendent of Police,
O/o. The Superintendent of Police,
Cuddalore District, Cuddalore.

2. The Deputy Superintendent of Police,
O/o. The Deputy Superintendent of
Police,
Cuddalore District, Cuddalore.

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